



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CCB/153694

PRELIMINARY RECITALS

Pursuant to a petition filed November 26, 2013, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Milwaukee Enrollment Services in regard to Child Care, a hearing was held on January 02, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency can backdate Petitioner's childcare benefits to September 1, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Children and Families
201 East Washington Avenue
Madison, Wisconsin 53703

By: Yia Xiong, Income Maintenance Specialist II
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On August 19, 2013, Milwaukee Enrollment Services (the agency) sent Petitioner a notice indicating that her child care eligibility was ending August 31, 2013 because she had not completed her six-month report form. (Exhibit 2, pgs. 27-29)

3. The notice was sent to Petitioner at an address on [REDACTED] (Id.)
4. On August 26, 2013, the agency sent to Petitioner Child Care Authorization Information, which also indicated that her childcare authorization was ending on August 31, 2013. The notice told Petitioner to contact her worker, if she needed additional authorizations. (Exhibit 2, pgs. 30-33)
5. This notice was sent to Petitioner at the [REDACTED] address. (Id.)
6. The agency did not receive any returned mail. (Testimony of Mr. Xiong)
7. On September 10, 2013, the Petitioner called the agency, but she either hung up or the call was dropped when the agency worker asked about household composition. (Testimony of Mr. Xiong; Exhibit 2, pg. 8)
8. There is no record of any other contact between the agency Petitioner until October 1, 2013. (Id.)
9. On October 1, 2013, the Petitioner completed a new application for child care benefits. (Testimony of Mr. Xiong)
10. On October 25, 2013, the agency sent to Petitioner a notice indicating that she was eligible for child care effective October 1, 2013. (Exhibit 2, pg. 34)
11. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on November 26, 2013. (Exhibit 1)

DISCUSSION

Petitioner asserts that her benefits should be backdated to September 1, 2013, because she tried calling the agency in September and because she did not get the notice on August 19, 2013, advising her that her child care benefits were ending on August 31, 2013, due to an incomplete Six Month Report Form (SMRF). Petitioner claims that she moved from the [REDACTED] address, but incredibly, Petitioner also claims that she cannot remember when she moved.

Petitioner's claim that she did not receive the notices is not credible. Indeed, how would Petitioner have known to call in September, had she not received a notice of some sort? It is also not believable that Petitioner cannot recall exactly when she moved. Further, Mr. Xiong indicated that that the agency did not receive any returned mail.

Regardless of the reason, if a Wisconsin Shares case has been closed for 30 days (a calendar month) or longer, the parent must re-apply for child care assistance. (Wisconsin Shares Child Care Manual §1.3.6.1) Petitioner's child care eligibility ended on August 31, 2013. Petitioner's case was closed for 30 days when she contacted the agency on October 1, 2013. Consequently, per Wisconsin Shares Child Care Manual §1.3.6.1, she needed reapply for benefits, which she did on October 1, 2013.

However, "eligibility may be backdated only to the first of the month of the application filing date..." The month of Petitioner's application filing date was October 2013. Consequently, Petitioner's benefits may begin on October 1, 2013, at the earliest. The agency acted correctly.

CONCLUSIONS OF LAW

The agency cannot backdate Petitioner's child care benefits to September 1, 2013.

THEREFORE, it is

ORDERED

That the Petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

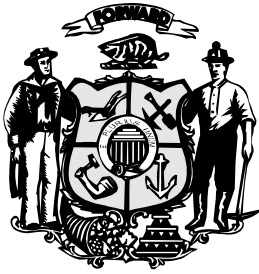
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Children and Families. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 201 East Washington Avenue, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 11th day of March, 2014.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 11, 2014.

Milwaukee Enrollment Services
Child Care Benefits